

McRAY VESTAL

MAY 20, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 7945]

The Committee on the Judiciary, to whom was referred the bill (H. R. 7945) for the relief of McRay Vestal, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, line 5, strike out the figures and insert "\$1,000".

At the end of bill strike out the period and insert:

: *Provided*, That no part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

The purpose of the proposed legislation is to pay the sum of \$1,000 to McRay Vestal, of Ferriday, La., in full settlement of all claims against the United States. Such sum represents compensation, and all expenses sustained by him as a result of mistaken identity and false imprisonment.

Letters from Judge Joe Ingraham of the southern district of Texas and United States Attorney Malcolm R. Wilkey addressed to Hon. Otto E. Passman, House of Representatives, gives the history of the proposed legislation and states that in their opinion McRay Vestal should be compensated for his imprisonment and expenses incident to the arrest.

Your committee, after careful consideration, is of the opinion that this was a gross miscarriage of justice and notwithstanding the ad-

verse report from the Department of Justice, and recommend favorable consideration of the bill in a reduced amount of \$1,000. The letters from the United States judge and the United States attorney are as follows:

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF TEXAS,
Houston, Tex., January 24, 1957.

Re *United States v. C. M. Vestal*, Cr. No. 12321, Houston division.

HON. OTTO ERNEST PASSMAN,
House of Representatives,
Washington, D. C.

DEAR SIR: I am taking the liberty of writing to you concerning one of your constituents, Mr. McRay Vestal, General Delivery, Ferriday, La. Mr. Vestal was tried before me yesterday afternoon for two alleged violations of section 322 (g), title 49, United States Code (Interstate Commerce Act). The trial developed that the prosecution of Mr. Vestal was a case of mistaken identity. In my opinion an injustice has been done him, and I am taking this occasion to supply you with the facts known to me as you may consider that a bill for his relief is in order.

Mr. Vestal is a farmer and has at times in the past worked as a truckdriver. He is a married man, with four children and states that a fifth is expected any day. It is obvious that in his economic condition he could ill afford the expense and loss of time which resulted from his prosecution.

The offenses charged are misdemeanors. A criminal information was originally filed in this district September 21, 1954, against C. M. Vestal, charging the defendant with offenses committed on July 27, 1953, and July 31, 1953, while employed as a truckdriver for Parkhill Truck Co. McRay Vestal was arrested in Louisiana, was taken before a United States commissioner at Monroe, La., where he was fingerprinted and made bond for appearance before this court.

Although the original information was in the name of C. M. Vestal, the bond made at Monroe was signed by your constituent, McRay Vestal.

Later, an amended criminal information was filed in this court on December 2, 1954, naming the defendant as MacCray C. Vestal.

The case was set for arraignment April 6, 1956, at 9:30 a. m. and McRay Vestal, your constituent, was notified by letter to appear. He states that the letter of notification was received by him at Ferriday, La., at noon on April 6, 1956. Because of this apparent default, he was notified to again go to Monroe, La., and make another bond, which he did.

The case was again set for arraignment in Houston May 11, 1956, and your constituent, McRay Vestal, was notified and appeared. Being without counsel, Judge Allen B. Hannay, of this district, appointed Mr. Charles Heidingsfelder, Jr., an attorney of the Houston bar, to defend him.

His case, and other cases, were set for trial before me the week of Monday, January 21, 1957. McRay Vestal left his home in Ferriday, La., on Sunday, January 20, 1957, traveled to Houston by bus, and appeared in court Monday morning.

The case was reached and tried Wednesday afternoon, January 23, 1957. The trial developed that the prosecution of your constituent, McRay Vestal, was a case of mistaken identity and that the real offender was one C. M. Vestal, who was originally charged. As stated above, the offenses are alleged to have been committed July 27 and July 31, 1953. McRay Vestal did not commence working for Parkhill Truck Co. until August 3, 1953. The signatures appearing on the truck driver's trip logs filed by C. M. Vestal bear no resemblance to the signature of your constituent, McRay Vestal.

When the matter of mistaken identity became apparent, Mr. C. E. Thornall, the examiner for the Bureau of Motor Carriers, Interstate Commerce Commission, left the courtroom and soon returned with information satisfying him that your constituent, McRay Vestal, was the victim of mistaken identity. Since the case had been on the docket upon Mr. Thornall's complaint since September 21, 1954, and since the confusion in names had been forcibly brought to their attention to the extent that they filed an amended criminal information on December 2, 1954, it strikes me that the examiner, Mr. Thornall, was a little late in coming in with the information that it was a case of mistaken identity.

Your constituent, McRay Vestal, brings to me the impression that he is an earnest and sensitive man, and I am convinced that he could ill afford, not only the anxiety and embarrassment caused him, but the loss of time and expense required by his unwarranted trips to Monroe and Houston.

I further wish to advise that this letter is written on my own initiative and that so far as I know, McRay Vestal has had no thoughts of initiating any relief for the injustice caused him by these proceedings.

I am enclosing a photostatic copy of the docket sheet, from which you will observe that the case was originally docketed in the name of C. M. Vestal and that a pen line was drawn through the initials "C. M." and "MacRay C." written in ink above it.

Yours very truly,

JOE INGRAHAM.

HOUSTON, TEX., *July 15, 1957.*

In re MacRay C. Vestal.

Hon. OTTO E. PASSMAN,

United States House of Representatives,

House Office Building, Washington, D. C.

DEAR CONGRESSMAN PASSMAN: The Honorable Joe Ingraham, United States district judge, called at my office on Friday, July 12, in regard to the compensation due MacRay Vestal, as specified in your bill, H. R. 7945. Judge Ingraham indicated that he had talked with you about the matter, and that you had been advised by the Department of Justice they were awaiting word from this office.

The Department of Justice did write us about this matter, and by letter of July 9, 1957, we advised the Criminal Division of all details.

It is indeed regrettable that this mistake in the administration of justice occurred. We believe that the matter would never have reached the trial stage had this office been informed by the defense attorney that there was to be claim of mistaken identity. Such

notice was received by this office for the first time during the course of the trial. This, of course, was the fault of Vestal's attorney and not of MacRay C. Vestal. This office concurs that compensation in some amount is certainly due Mr. Vestal.

Yours respectfully,

MALCOLM R. WILKEY, *United States Attorney.*

UNITED STATES DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D. C., August 12, 1957.

Hon. EMANUEL CELLER,

Chairman, Committee on the Judiciary,

House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 7945) for the relief of McRay Vestal.

The bill would provide for the payment of the sum of \$2,500 to McRay Vestal, of Ferriday, La., in settlement of his claim against the United States for damages sustained by him as a result of his alleged wrongful arrest and prosecution on certain criminal charges.

Examination of the file in this case discloses that one C. M. Vestal was charged with falsification of certain records in the prosecution of Parkhill Truck Co. and 15 truckdrivers employed by it. The charge against defendant alleged falsification of his driver's logs in two counts for the dates of July 27 and July 31, 1953. The information was filed in the United States District Court for the Southern District of Texas, Houston division, on September 21, 1954. Efforts by the marshal's office in several localities to locate C. M. Vestal were unsuccessful. Finally, however, the authorities located McRay C. Vestal, claimant in this bill, on December 14, 1954, and brought him before the United States commissioner in Monroe, La., where he posted bond for his appearance for trial. After several postponements the case came on for trial in January 1957, in Houston, Tex., and upon evidence that it was a case of mistaken identity, claimant was found not guilty. Subsequent investigation revealed that on or about August 1, 1953, C. M. Vestal, the original defendant, left the employ of Parkhill Trucking Co. and that about the same time a "McRay C." Vestal, claimant in this bill, was employed by the company.

In view of these circumstances, it appears that there were reasonable grounds, at the time, to believe that McRay Vestal, claimant in this bill, was the C. M. Vestal who committed the alleged violations. There is no evidence that any Federal officer acted maliciously.

The Congress has made provision for compensating persons unjustly convicted of an offense against the United States and imprisoned (28 U. S. C. 1495 and 2513). Such benefits, however, have not been extended to persons, like claimant in this bill, who have not been convicted and imprisoned.

The unfortunate circumstance of the similarity of names which led to the wrongful arrest and prosecution of this claimant are regrettable but, in considering the claim on its merits, it is difficult to distinguish it, in its essential aspects, from any other case in which a person

undergoes criminal prosecution but is ultimately acquitted. Enactment of legislation to compensate the claimant in this instance would accord to him preferential treatment not granted to others in similar circumstances.

Accordingly, the Department of Justice is unable to recommend enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

○

undergoes criminal prosecution but is ultimately acquitted. It is
 worth of mention to compare the treatment of the accused with
 regard to his physical treatment and credit to others in similar
 cases.

Accordingly, the Department of Justice is unable to recommend
 enactment of the bill.

The Bureau of the Post has advised that there is no objection to
 the submission of this report.

Sincerely,

WILLIAM R. ROBERTS
 Deputy Attorney General.

○